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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,188	01/21/2004	Takumi Ota	9399-4RE	9423

570 7590 03/29/2005

AKIN GUMP STRAUSS HAUER & FELD L.L.P.
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103-7013

EXAMINER

HUBER, PAUL W

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/762,188

Applicant(s)

OTA ET AL.

Examiner

Paul Huber

Art Unit

2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 08/855,252.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 012104.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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The specification is objected to as failing to recite all the continuing data, i.e., the specification fails to recite that the application is a reissue of 09/378,657. Appropriate correction is required.

The original patent, or a statement addressing the loss or inaccessibility of the original patent, has not been received and must be received before the reissue application can be allowed (see 37 CFR 1.178).

The reissue declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following: the declaration does not identify each inventor's country of citizenship as required by 35 U.S.C. 115 and 37 CFR 1.63(a)(3), nor is each inventor's residence and mailing address provided.

Claims 1-11 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

In accordance with 37 CFR 1.175(b)(1), a supplemental reissue declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Receipt of an appropriate supplemental declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental declaration is as follows:

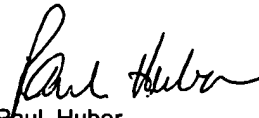
"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

Claims 1-11 would be allowable if the rejection under 35 U.S.C. 251 as set forth above is overcome.

The following is an examiner's statement of reasons for allowance: the prior art of record considered as a whole fails to teach or suggest an optical disk reproducing device comprising: means for rotating an optical disk; means for reading data from the disk while the disk is rotated; means for detecting vibration or shock of the device during rotation of the disk; and velocity control means for **controlling the rotational velocity of the disk to be a predetermined velocity to read data from the table of contents (TOC) area of the disk, and then determining a limit rotational velocity of the disk above which the vibration or shock is excessive by varying the rotational velocity of the disk, and when data is read from a data area of the disk, causing the disk to rotate at a rotational velocity which is not higher than the limit rotational velocity.** (bold language emphasized)

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Any inquiry concerning this communication should be directed to Paul Huber at telephone number 571-272-7588.



Paul Huber
Primary Examiner
Art Unit 2653